

Cases on Equitable Remedies (Book Review)

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BOOK REVIEWS

CASES ON EQUITABLE REMEDIES. By Professor Zechariah Chafee, Jr. Cambridge: Published by the Editor, 1938, pp. v, 472.

The title page of this book indicates that the subject matter of the book is not as broad as the above title suggests for it lists the specific remedies Interpleader, Bills of Peace, Cancellation, Removal of Cloud on Title, and Declaratory Judgments. As the author points out in the preface, these form a "rather loose group of remedies dealing with multiple parties and the warding off of anticipated future disputes"¹ and are included in this book to round out the course in Equity given at Harvard Law School.

Powers of Equity; Specific Performance of Contracts; Specific Relief against Torts have all been treated in the earlier works of Professor Chafee, Dean Pound, and Professor Simpson. The underlying philosophy as shown by the arrangement of material in this book is in accord with that used in the prior works.² In addition to leading and well-known older cases, practically every new and important case dealing with these topics is also included. The book is a combination of case materials, excerpts from writers, footnotes, citations, and statutory materials. The insertion of notes should be justified as a time-saving device to relieve the teacher from expounding many collateral principles that are necessary as a part of the technique in developing the case material and also to correlate the cases themselves.

It would be difficult to conceive of a problem in any of the above fields which could not be *solved* by a proper use of the footnotes and citations. To make these valuable for use the book contains an analytical table of contents replacing the conventional table of cases and index of topics. For a law student the analytical table of contents should serve as an easy access to the material sought for; a lawyer seeking a case might find a complete table of cases more desirable. The author evidently had the possibility of this need in mind for he frankly states in the preface³ that if a reader suffers inconvenience caused by the absence of a table of cases or index, same would be readily supplied. In addition to the notes and many footnote-citations, mention should be made of the problem cases and the use of statutory material. The problem cases found throughout the book state not only relevant and at times very difficult problems in connection with the preceding text and case material, but also contain citations of cases which either answer the problem or suggest its solution. The use of problems to such a large extent and with the full treatment they receive should be a great help to the students and the teachers. They should not only help the student to grasp the principles of preceding material, but also show a more varied and broader application.

The extent to which statutory material has been used can be seen from an examination of the table of statutes and rules of court, immediately following the analytical table of contents. Special mention should be made of

¹ P. v.

² Maloney, Book Review (1935) 10 ST. JOHN'S L. REV. 189.

³ P. vi.

Interpleader. The English, New York, and Connecticut statutes are set forth with material for study. The recent Federal Interpleader Act of 1936 is set forth in the index. Statutory remedies modifying the technical requirements of Bills *Quia Timet* and the type declaratory judgment statutes with material for study are also included. The use of statutory material in teaching equity is so desirable and necessary⁴ that inclusion of this material is definitely a real contribution.

As this book is a part of a whole it will probably be more serviceable to those teachers and students using the other parts mentioned above. But I believe this material could well be used to supplement other courses which deal largely with Specific Performance and Specific Relief against Torts. This is a problem the adjustment of which depends on the philosophy of the curriculum.

As a book it is the most exhaustive and scholarly treatment of the topics covered that I know of. However, we would all appreciate the "short chapter" on reformation and rescission which the author promises to add to this book. In spite of the able reasoning⁵ by which he justifies its omission, one gets the impression that something has been lopped off and I feel that most teachers would prefer that its permanent home be in this book rather than in Cases on Restitution.

JOHN P. MALONEY.*

TRADE ASSOCIATIONS IN LAW AND BUSINESS. By Benjamin S. Kirsh in collaboration with Harold Roland Shapiro. Central Book Company, 1938, pp. 399.

Barely a few decades have passed since the very term "trade association" carried with it the concept of a wicked group of scheming industrialists, formed into a pool for the illegal and anti-social purpose of fixing prices, limiting production or apportioning output, sales, territory or profits. The existence of these organizations was a perpetual source of agitation for the trust-busting fraternity who saw in every such organization a conspiracy to flout the law governing the free play of competitive forces in our industrial economy. That the modern trade association has largely moved away from these wholly illegitimate objects and has entered into a useful, constructive and indeed indispensable field of cooperative effort, most of us have been all too slow to recognize. When we consider how vital to our economic life, especially during the present period of economic and social discontent, is a right solution of the problems of competition and monopoly, and especially when we consider the utter dearth of exhaustive and constructive analysis in this field free from political or social bias,—we must welcome a work on the subject inspired solely by the impartial spirit of research and an honest determination to present and analyze the best available thought on the subject.

⁴ See instructive article by Simpson, *The Use of Statutory Materials in the Teaching of Equity* (1932) 21 GEO. L. J. 457.

⁵ Pp. vi, vii.

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